

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ALAN A. TOWNSEND,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 2:11-CV-113

CRIM. NO. 2:08-CR-168(2)

JUDGE GRAHAM

MAGISTRATE JUDGE KING

ORDER

On May 16, 2012, the Magistrate Judge recommended that the motion to vacate, set aside or correct sentence, filed pursuant to 28 U.S.C. § 2255, be dismissed. *Report and Recommendation*, Doc. No. 132. This matter is now before the Court on Petitioner's objections to that recommendation. *Objection*, Doc. No. 138. The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b).

Petitioner's amended and supplemental motion to vacate arises out of the fact that the *Plea Agreement*, pursuant to which Petitioner pled guilty, specified that Petitioner would be subject to a term of supervised release of only three (3) years; in fact, Petitioner was subject to, and was sentenced to, the mandatory minimum term of five (5) years supervised release. *Judgment*, Doc. No. 100. Petitioner claims that the government thereby acted in breach of the *Plea Agreement* and that his plea of guilty was therefore not knowing, intelligent or voluntary. Petitioner also claims that he was denied the effective assistance of counsel because his attorney failed to object to a three point enhancement of his sentence and failed to advise Petitioner that he would be required to register as a sex offender under the terms of supervised release. Petitioner objects to the Magistrate Judge's conclusion that Petitioner failed to establish cause and prejudice for the procedural default of his claim

that his guilty plea was not knowing, intelligent or voluntary based on a breach of his *Plea Agreement*. Petitioner also objects to the Magistrate Judge's conclusion that his claim of ineffective assistance of counsel lacks merit. Petitioner again raises all of the same arguments that he previously presented.

For the reasons already detailed in the Magistrate Judge's *Report and Recommendation*, Petitioner's arguments are not persuasive. Petitioner's objections are therefore **OVERRULED**. The *Report and Recommendation*, Doc. No. 132, is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

The Clerk shall enter FINAL JUDGMENT.

Date: July 13, 2012

s/James L. Graham
James L. Graham
United States District Judge